

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KRISTI WALKER and DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION AGENCY, Longmont, CO

*Docket No. 02-2214; Submitted on the Record;
Issued June 10, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained an injury in the performance of duty on April 17, 2000.

Appellant, a 43-year-old rural mail carrier, filed a claim for a traumatic injury on February 6, 2001 alleging that she injured her lower back and the left side of her body while pulling a bundle of mail on April 17, 2000. Appellant submitted disability slips dated July 7 and 26, 2000 from Dr. Faryar Moshtaghi, an osteopath, who submitted a February 26, 2000 treatment note, indicating that appellant had been treated on April 17, 2000 for a possible hernia.

By letter dated March 14, 2001, the Office of Workers' Compensation Programs advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. The Office asked appellant to submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition and an opinion as to whether her claimed condition was causally related to her federal employment.

Appellant submitted an April 24, 2000 report from Dr. A. Prosperi, who noted her complaints of pain in the left inguinal region and her suspicions that she had sustained a left inguinal hernia, as she had four years earlier. Dr. Prosperi related appellant's description of her alleged April 17, 2000 injury, that she was bending back to bring some things forward when she felt a pull in there and had been experiencing pain ever since, especially when she coughed, sneezed or bore down.¹

By decision dated April 24, 2001, the Office denied appellant's claim, finding that she failed to establish fact of injury.

¹ The handwritten signature is illegible, but appears to be Dr. A. Prosperi.

By letter dated April 11, 2002, appellant's attorney requested reconsideration. Appellant submitted a May 1, 2002 report from Dr. Moshtaghi; an April 25, 2001 report from Dr. Prosperi, stating that appellant was scheduled for exploratory inguinal surgery and a May 15, 2001 note indicating such surgery had been performed on that date; reports dated July 12 and September 5, 2001 from Dr. Scott M. Otis, Board-certified in physical medicine and rehabilitation, periodic treatment reports from October and November 2001 from Dr. Anthony C. Freeman, an osteopath, who diagnosed chronic hip and back pain with some radicular symptoms, which he considered attributed to piriformis syndrome and bursitis. None of these physicians, however, submitted a probative, rationalized medical opinion which indicated that appellant's current conditions were causally related to the April 17, 2000 work incident.

By decision dated June 10, 2002, the Office denied reconsideration.

The Board finds that appellant has failed to establish that she sustained an injury in the performance of duty on April 17, 2000.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing that the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁵ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶ The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and

² 5 U.S.C. §§ 8101-8193.

³ *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.* For a definition of the term "injury," see 20 C.F.R. 10.5(a)(14).

must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷

In this case, it is uncontested that appellant experienced the employment incident at the time, place and in the manner alleged. However, the question of whether an employment incident caused injury generally can be established by medical evidence⁸ and appellant has not submitted rationalized, probative medical evidence to establish that the employment incident on April 17, 2000 caused a personal injury and resultant disability.

Appellant has not submitted a rationalized, probative medical opinion sufficient to demonstrate that her April 17, 2000 employment incident caused a personal injury or resultant disability. In this regard, the Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁹ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence in the present case. Appellant submitted reports from Drs. Moshtaghi, Prosperi, Otis and Freeman, which noted that she underwent exploratory surgery on May 15, 2000, stated findings on examination and generally attributed her complaints of pain in her back and left side to the April 17, 2000 employment incident, but these did not contain a rationalized medical opinion demonstrating that appellant's diagnosed conditions were causally related to her April 17, 2000 employment injury. The Office advised appellant of the type of evidence required to establish her claim; however, appellant failed to submit such evidence. Appellant, therefore, did not provide a medical opinion to describe or explain the medical process through which the April 17, 2000 work accident would have caused the claimed injury. Accordingly, as appellant failed to submit any probative medical evidence establishing that she sustained an injury in the performance of duty, the Office properly denied appellant's claim for compensation.

⁷ *Id.*

⁸ *See John J. Carlone, supra* note 5.

⁹ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹⁰ *Id.*

The decision of the Office of Workers' Compensation Programs dated June 10, 2002 is hereby affirmed.

Dated, Washington, DC
June 10, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member